

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 3421**, from H-3 Highway Commercial District to R-3 Residential District, requested by Ross Engineering, Inc. on behalf of The Dinerstein Companies, on property generally located west of North 1<sup>st</sup> Street and south of Charleston Street.

**STAFF RECOMMENDATION:** Approval

**ASSOCIATED REQUESTS:** Special Permit No. 1928A, Sterling University Phase 2 Community Unit Plan (04R-59) and Preliminary Plat No. 03011, Outfield Park (04R-60).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 02/04/04 and 02/18/04  
Administrative Action: 02/18/04

**RECOMMENDATION:** Approval (7-1: Pearson, Krieser, Carroll, Sunderman, Marvin, Taylor and Bills-Strand voting 'yes'; Carlson voting 'no'; Larson absent).

### **FINDINGS OF FACT:**

1. This change of zone request and the associated phase 2 of the community unit plan and the preliminary plat were heard at the same time before the Planning Commission.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.7-9, concluding that the associated phase 2 of the community unit plan demonstrates a site design that is sensitive to the existing wetlands, borrows most of its fill from on-site, and meets the requirements for dwellings for non-related persons. This proposal is a continuation of the existing student oriented apartments located immediately to the west. Changing the zoning is necessary for this development to occur, and generally conforms to the Comprehensive Plan.
3. These applications were heard by the Planning Commission on February 4 and February 18, 2004. The applicant's testimony is found on p.10-13 and 16-17. Additional testimony in support at the continued public hearing on February 18, 2004, is found on p.17-18, including a representative of the North Bottoms Neighborhood Association. The neighborhood association supports this project but continues to have concerns about the traffic and the new street aligning with the entrance to the ball park. The neighborhood association believes that their issue with the floodplain has been satisfied. (Also See correspondence from North Bottoms Neighborhood Association on p.22-26).
4. There was no testimony in opposition.
5. Additional information received from the applicant and submitted by Commissioner Pearson is found on p.27-28.
6. On February 4, 2004, a motion for approval failed 4-4 and the application was held over until February 18, 2004 (Marvin, Taylor, Sunderman and Bills-Strand voting 'yes'; Carlson, Krieser, Carroll and Pearson voting 'no'; Larson absent).
7. On February 18, 2004, the Planning Commission agreed with the staff recommendation and voted 7-1 to recommend approval (Commissioner Carlson dissenting, maintaining his position that there are floodplain, landfill and access issues involved which he believes makes this a poor location for student housing).

**FACTSHEET PREPARED BY:** Jean L. Walker

**REVIEWED BY:** \_\_\_\_\_

**REFERENCE NUMBER:** FS\CC\2004\CZ.3421

**DATE:** March 15, 2004

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## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 4, 2004 PLANNING COMMISSION MEETING

**\*\*As Revised and Recommended for Conditional Approval by Planning Commission on February 18, 2004\*\***

This is a combined staff report for related items. This report contains a single background and analysis section for all items.

**P.A.S.:** SP #1928A - Sterling University Phase 2 CUP  
**CZ #3421 - H-3 Highway Commercial to R-3 Residential**

**PROPOSAL:** Amend the Oak Creek Apartments Community Unit Plan to add 171 dwelling units for 561 occupants and additional amenities to the existing student housing project, bringing the development total to 328 dwelling units for 1,150 occupants. Change the zoning within Phase 2 from H-3 Highway Commercial to R-3 Residential.

**LOCATION:** West of North 1<sup>st</sup> Street and south of West Charleston Street.

**WAIVER REQUEST:**

1. Landscape Screening for CUP.

<b><u>LAND AREA:</u></b>	Phase 2	28.8 acres, more or less
	Entire CUP	55.2 acres, more or less

**CONCLUSION:** This community unit plan demonstrates a site design that is sensitive to the existing wetlands, borrows most of its fill from on site, and meets the requirements for dwellings for non-related persons. This proposal is a continuation of the existing student oriented apartments located immediately to the west. Changing the zoning is necessary for this development to occur, and generally conforms to the Comprehensive Plan.

**RECOMMENDATION:**

Special Permit #1928A	Approval
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Waivers

1. Landscape Screening for CUP	Approval
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**Change of Zone #3421**

**Approval**

## **GENERAL INFORMATION:**

### **LEGAL DESCRIPTION:**

SP #1928A

Phase 2      A portion of Lot 81 I.T. and a portion of Lot 90 I.T., located in the SE1/4 of Section 15 T10N R6E; a portion of Lot 263, a portion of Lot 302, and a portion of Lot 303, all located in the NE1/4 of Section 22 T10N R6E, Lancaster County Nebraska.

Entire CUP      A portion of Lot 81 I.T., a portion of Lot 90 I.T., and Lots 85 I.T. and 91 I.T., all located in the SE1/4 of Section 15 T10N R6E; Lots 132 I.T. and 302, a portion of Lot 263, and a portion of Lot 303, all located in the NE1/4 of Section 22 T10N R6E, Lancaster County Nebraska, more particularly described in Exhibit A.

CZ #3421      A portion of Lot 81 I.T., located in the SE1/4 of Section 15 T10N R6E; a portion of Lot 263 I.T., located in the NE1/4 of Section 22 T10N R6E, Lancaster County, Nebraska, more particularly described in Exhibit C.

**EXISTING ZONING:**              R-3 Residential and H-3 Highway Commercial.

**EXISTING LAND USE:**      Apartments, wetlands, vacant

### **SURROUNDING LAND USE AND ZONING:**

North:	Oak Creek, mini-warehousing	I-1 Industrial
	Vacant	H-3 Highway Commercial
South:	Vacant	H-3 Highway Commercial
	Vacant	R-3 Residential
East:	Vacant	H-3 Highway Commercial
	Oak Lake, City tow lot and BMX track	P Public
West:	Multiple-Family Residential CUP	R-3 Residential

**ASSOCIATED APPLICATIONS:**              Preliminary Plat #03011 Outfield Park

### **HISTORY:**

Jul 2002      Administrative Amendment #02034 to Special Permit #1928 approved a water meter building, access drive across the railroad line, relocated parking stalls, revised notes, and bus stop.

Jan 2002      Special Permit #1928 approved Oak Creek Apartments CUP with 157 dwelling units (589 bedrooms).

Jan 2002      Change of Zone #3329 approved changing the zoning from I-1 Industrial to R-3 Residential over the original Oak Creek Apartments CUP area.

Jan 2002      Change of Zone 3346 approved changing the zoning from I-1 industrial to H-3 Highway Commercial in the area of this amendment.

May 1979 This area was changed from K Light Industrial and I Heavy Industrial to I-1 Industrial through the 1979 zoning update.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Plan designates this area as Urban Residential, Commercial, Environmental Resources, and Green Space. (F 25)

**Urban Residential:** Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

**Commercial:** Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (F 22)

**Environmental Resources:** Land and water masses which are of particular importance for maintenance and preservation, such as saline wetlands, native prairie, and some floodway and riparian corridors. Such areas may be either publicly or privately owned. (F 22)

**Green Space:** Areas predominantly used for active recreational use, such as parks, golf courses, soccer or ball fields, and trails. Green space areas may be either public or privately owned. While some isolated environmentally sensitive features may be within these areas, they are predominantly for active recreation, with some passive recreation uses also possible. (F 22)

The **Guiding Principles for the Urban Environment** include:

Lincoln's future urban growth should generally occur in multiple directions around the existing city. Lincoln will continue to have managed and contiguous growth. Lincoln's sense of community has been based on incremental, compact growth built on the foundation of established neighborhoods. Future growth will continue this traditional pattern and be linked to both the level of demand in the market and to the orderly extension of public improvements and services. (F 17)

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods. (F 17)

Encourage mixed-use redevelopment, adaptive reuse, and in-fill development including residential, commercial and retail uses. These uses may develop along transit routes and provide residential opportunities for persons who do not want to or cannot drive an automobile. (F 18)

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate. Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents. (F 18)

**Overall Guiding Principles for Residential Areas** include:

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

New residential development is generally discouraged in areas of environmental resources such as saline wetlands, native prairies and in floodplain corridors. (F 66)

Encourage convenient access to neighborhood services (stores, schools, parks) from residential areas. (F 66)

Transit, pedestrian, and bicycle networks should maximize access and mobility to provide alternatives and reduce dependence upon the automobile. Sidewalks should be provided on both sides of all streets, or in alternative locations as allowed through design standards or the Community Unit Plan process. (F66)

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools, and places to recreate. (F 66)

Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling and provide multiple connections within and between neighborhoods. (F 66)

The **Transportation Planning Principles** for Lincoln and Lancaster County involve different modes of transportation to achieve the safe, efficient and convenient movement of persons and goods. The transportation system includes streets and highways, public transportation, railroads, trails, sidewalks, and airport facilities. (F 85)

The overall objectives of the transportation plan include:

Developing a balanced transportation system that meets the mobility needs of the community and supports Lincoln and Lancaster County's land use projections and plan. (F 87)

Using the existing transportation system to its best advantage. (F 87)

Increasing the use of alternative means of transportation, including public transportation, bicycle transit, and pedestrian movement, by improving and expanding facilities and services and encouraging compact, walkable land use patterns and project designs. (F 87)

Pedestrians are found throughout the community. Their needs can vary by where they are located:

**Schools:** While it might not be critical for the route to school to be picturesque and visually captivating, a safe and secure environment must be provided for students going to and coming from schools. Sidewalks should be direct and continuous with safe street crossings. (F 91)

**Other Areas:** All areas of the community should have safe, secure, and reasonably direct pedestrian connections. Activities of daily living should be available within walking distance. Neighborhoods should include homes, stores, workplaces, schools, and places to recreate. Interconnecting streets, trails, and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, and conserve energy. (F 91)

**Public Transportation** is an essential component of the transportation system and should be integrated with all other transportation modes. (F 97)

Transit service reacts to the density of the City, transportation corridors and activity centers, as well as to the design of activities along those corridors and centers it serves. High travel corridors and activity centers with a mix of uses provides the demand that can effectively support higher levels of transit service. (F 97)

Effective public transportation service requires good pedestrian connections to and from transit stops, density of activities, and development designs supportive of transit riders...Productive transit service requires high density land development patterns which link residential areas to employment, retail, and service centers. Development design needs to be transit friendly providing convenient access to transit services. (F 98)

**UTILITIES:** Water service is private, all other utilities are public. As shown on the proposed plan, the private system crosses over the public system. This raises concerns over potential damage to one system during construction or maintenance of the other. Ideally, the private service would be relocated to not cross the public system. Additionally, public utilities will not be allowed to be constructed in landfill material.

**TOPOGRAPHY:** The site is generally flat, with wetlands in depressed areas.

**TRAFFIC ANALYSIS:** The 2025 Comprehensive Plan designates Charleston Street east of North 1<sup>st</sup> Street as a Collector, both now and in the future. Charleston Street west of North 1<sup>st</sup> Street is classified as a Local Street both now and in the future. North 1<sup>st</sup> Street is identified as a Collector at the present time, and as a Principal Arterial in the future. (E 49, F 103) Improvements to North 1<sup>st</sup> Street between US 34 (“O” Street) and Alvo Road are identified in the Comprehensive Plan. The improvements include realignment of Sun Valley Boulevard and changing this portion of North 1<sup>st</sup> into a 4 lane plus turn-lane cross section. (F 111)

The traffic analysis indicates recommendations that do not match the proposed plan in relation to the drive locations and the intersection of North 1<sup>st</sup> and Charleston Streets. Also, the paving width as shown on the portion of private roadway should be increased given the potential uses of properties north and south of this development.

Due to the large number of residents in this complex, a secondary access is being provided east of the Charleston/North 1<sup>st</sup> Street intersection. In the short term, this access will connect the apartments to the City tow lot driveway, then to Charleston Street. Should this access be closed by the City or due to reconstruction work in Sun Valley Boulevard, the developer will provide a private road connection from the apartments to the south, connecting to Sun Valley Boulevard at Line Drive.

**Principal Arterials:** This functional class of street serves the major portion of through-traffic entering and leaving the urban area and is designed to carry the highest traffic volumes. These serve intra-area traffic such as between the CBD and outlying residential areas and traffic between major inner-city communities or suburban centers. Included in this class are fully controlled access facilities and partially controlled access facilities. The principal arterial system is stratified into the following (two) subsystems:

*Other Principal Arterials:* This functional class of street serves the major portion of intercommunity and intracommunity traffic movement within the urban area and is designed to carry high traffic volumes. For other principal arterials, the concept of service to abutting land is subordinate to serving major traffic movements. Facilities within this classification are capable of providing direct access to adjacent land but such service is to be incidental to the primary functional responsibility of moving traffic within this system. (F 102)

**Collector:** These streets serve as a link between local streets and the arterial system. Collectors provide both access and traffic circulation within residential, commercial, and industrial areas. Moderate to low traffic volumes are characteristics of these streets. (F 105)

**Local Streets:** These are composed of all lower order facilities that essentially serve as a conduit between abutting properties and higher order streets. Local streets provide the lowest level of mobility and generally exhibit the lowest traffic volumes. (F 105)

**PUBLIC SERVICE:** The nearest fire station is located at 2<sup>nd</sup> and “N” Streets. The residents of these apartments are provided with bus transportation to and from UNL, if they choose. The owner has agreed to a bus route that does not use local streets within nearby residential areas.

**ENVIRONMENTAL CONCERNS:** Much of the land in this area sits over an old landfill site. Although Applicant will clean landfill from within the limits of the development area, concerns still exist regarding the production of methane gas from anaerobically decaying organic matter. Methane gas can travel horizontally, and therefore, potentially enter the buildings posing a health risk to occupants.

All of this area lies within the combined floodplain of Salt Creek and Oak Creek. Therefore, regulations for construction within the floodplain must be met, and fill permits will be required for any proposed filling of the floodplain. Applicant does propose to borrow most of their fill from on site, however, recommendations for compensatory storage and no net rise should be followed.

**AESTHETIC CONSIDERATIONS:** The proposed buildings are two- and three-story, and appear to be similar to those already constructed in Phase 1. The City of Lincoln tow lot sits nearby, to the east.

**ALTERNATIVE USES:** This site could remain zoned H-3 Highway Commercial and be developed with commercial uses.

**ANALYSIS:**

1. This is a request to amend the Oak Creek Apartments Community Unit Plan to add 171 additional dwelling units (561 bedrooms), and amenities to the existing student housing project, as well as to change the zoning on a portion of the site from H-3 Highway Commercial to R-3 Residential.
2. The existing Phase 1 site is fully developed, and is approved for 157 dwelling units, with 529 bedrooms. If this request is approved, there will be a total of 328 dwelling units for 1,090 residents.
3. The total allowable density that can be supported by this 55.2 acres depends upon the make-up of the units. The 1, 2, and 3-bedroom units have a calculated density of 6.96 units/acre. There are 97 such units, requiring 14.1 acres. The 230 4-bedroom units are calculated at 2,000 square feet per bedroom. Therefore, the 920 bedrooms require 42.2 acres. In total, this CUP requires 56.3 acres. The legal description of this CUP (Exhibit A) states there are 56.1 acres, while the density calculations on the site plan state 55.2 acres. This discrepancy must be resolved.
4. The site sits over an old landfill. Because of financing company requirements, Applicant will clean any landfill material from the limits of this CUP. The shape of this site was dictated largely by the location of landfill material, minimizing the amount of cleaning that will be necessary.

However, this shape also splits the remaining parcel in two, complicating future access and circulation patterns. As part of the associated preliminary plat, Applicant has proposed a private roadway through this property, from West Charleston to Sun Valley Boulevard to address traffic circulation concerns. The Community Unit Plan drawings must be revised to show the same circulation patterns as shown on the preliminary plat

5. The existence of landfill material under and near this site raises concerns over potential exposure to methane gas. The Health Department's concerns regarding possible methane gas exposure have not been addressed.
6. The grading plan indicates fill material from within the floodplain is being used. The Public Works Department recommends utilizing compensatory storage practices to offset lost flood storage. The grading plan should also meet a no net rise standard.

7. This development, both Phases 1 and 2, are targeted at the university student population. Shuttle buses are provided between the apartments and UNL city campus for residents of the apartments. The owner has committed to bus routes that avoid driving through the nearby residential neighborhoods. The location of this development also provides for pedestrian and bicycle access to city campus.
8. The Applicant has requested a waiver of CUP landscape screening due to the remote location and unique surroundings of this property. This site is surrounded by Oak Creek, Oak Lake, and H-3 Highway Commercial zoned property. The Design Standards require uses in H-3 to provide a landscape screen when they abut residential property. Requiring a screen on both properties would be redundant. It seems more appropriate for the commercial uses to screen themselves from the residential uses, rather than vice-versa. Since there are no lower intensity residential uses adjacent to this CUP, Planning Staff recommends approval of this waiver.
9. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.
  1. **Safety from fire, flood and other dangers.**

Although this area is within the floodplain, design regulations require construction methods that will minimize flood impact upon the apartment structures and habitable space. Traffic congestion concerns and emergency rescue needs will be improved through use of the secondary access bypassing the Charleston/North 1<sup>st</sup> Street intersection.
  2. **Promotion of the public health, safety, and general welfare.**

This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. Additionally, this project will provide housing and transportation for many university students, located in close proximity to city campus.
  3. **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.**

The existing apartments have been successful at this location. With the anticipated realignment and widening of Sun Valley Boulevard, this area can be expected to have some amount of increased development potential. Locating student housing in this area can help provide support and motivation for development.
  4. **Conservation of property values.**

It is difficult to determine the effect a change of zoning will have on property values. The value of this property has been based upon commercial zoning, but the property sat vacant. Through this community unit plan and development proposal, this property will be likely be more valuable. The value of neighboring commercial property may be affected by changes within this site, but will also be influenced by anticipated road work in Sun Valley Boulevard and changes that may bring.



**5. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The success of the existing apartments suggests there is demand for additional student housing in this area of town. Close proximity to transportation routes, public park space, and UNL city campus support residential uses in this area.

10. Planning Staff recommends approval to Change of Zone #3421.
11. Planning Staff recommends approval to Special Permit #1928A Sterling University CUP based upon the following conditions. Planning Staff also recommends approval to the waiver of CUP landscape screening.

Prepared by:

Greg Czapski  
Planner

**Date:** January 26, 2004

**Applicant:** The Dinerstein Companies  
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713.570.0350

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**CHANGE OF ZONE NO. 3421;  
SPECIAL PERMIT NO. 1928A, AN AMENDMENT  
TO THE OAK CREEK APARTMENTS COMMUNITY UNIT PLAN  
(Sterling University Phase 2 Community Unit Plan);  
and  
PRELIMINARY PLAT NO. 03011, OUTFIELD PARK**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 4, 2004

Members present: Carlson, Krieser, Marvin, Carroll, Taylor, Sunderman, Pearson and Bills-Strand; Larson absent.

Staff recommendation: Approval of the change of zone and conditional approval of the special permit and preliminary plat.

Ex Parte Communications: Marvin recalled having some phone calls back when Phase 1 came forward.

Proponents

1. **Michael Rierden** appeared on behalf of the applicant, **The Dinerstein Companies**, Approximately two years ago, Rierden presented Phase I of this project, which has been successfully completed and is a very nice project. The city was fortunate to have someone of this applicant's quality to come in and successfully develop a piece of ground that sits in an area that has had some difficult uses (landfill, floodplain and wetlands). Rierden submitted a letter from the President of the North Bottoms Neighborhood Association setting forth the agreement that has been reached between the applicant and the neighborhood to help mitigate the neighborhood's concerns about there being the large student population in and around the neighborhood and the floodplain issue. That agreement includes:

- Fill dirt will come from within the project site resulting in no net rise in the floodplain.
- A one time contribution of \$15,000 to help fund a police substation within the North Bottoms Neighborhood.
- Install street lighting and sidewalks along the west side of West Charleston Street between phases I and II.
- Shuttle buses will not travel via streets within the neighborhood except North 10<sup>th</sup> and Military Road.
- Adopt West Charleston Street for the purposes of regular litter pick up.
- Support the relocation of the city tow lot away from the area.

- Support the retention of a Belmont/North 10<sup>th</sup> Street connection when Sun Valley Boulevard is reconfigured.
- Join the North Bottoms Neighborhood Association and support their efforts to improve this area of Lincoln.

**2. Ron Ross with Ross Engineering**, 201 N. 8<sup>th</sup>, did further presentation on the proposal. The Dinerstein Companies is out of Houston, Texas. They do multitudes of different types of development and happen to be the most successful student housing developer in the country with 36 completed projects at major universities. They have five projects currently under construction and five projects currently in the planning stages. The first phase, which is built, had 157 units. These units were comprised of more of an apartment type unit. Each unit was 1,300 to 1,500 sq. ft. and had 2, 3 or four bedrooms. The proposed phase II area is an upscale project. The units will be 2 to 2.5 stories—not apartments but a townhouse looking structure—1,800 sq. ft. and more expensive. Each project has a full clubhouse and office. The inside of the clubhouse has a show unit. They have a complete exercise and weight room, computer labs, social area, swimpool, basketball and volleyball courts, security unit, shuttle bus to and from the University running throughout the day, and bus shelter. The students are hired as a substantial portion of the staff. If a tenant has three legal infractions within their criteria, they are evicted from the facility. The parents are required to sign the leases.

The issues are wetlands, floodplain, landfill and access. Wetlands was a concern in phase I as to whether they are saline. It was determined that those wetlands and the phase II wetlands are not saline and therefore are not category I. This project does not mitigate or destroy any of the wetlands. There are special design and construction features to be approved by the NRD due to the proximity to the existing wetlands.

With regard to floodplain, Ross advised that the applicant currently has floodplain and NPDES permits ready to be submitted for phase II. Fortunately, 2/3 of the phase II area already has approved floodplain and NPDES permits to allow fill. As in phase I, no dirt was trucked in. It all came from between the railroad tracks, and that is the native material being used to fill phase II. The preliminary plat which involves the land a little to the north of phase I and to the south does require some material to be brought in that is outside of the floodplain. We have been asked to report how many cubic yards we will need to complete the project, but the property is included in the original fill permits. They had to build up streets and a certain portion of the remaining commercial lots, but that has been done in a smaller isolated area. The balance of the commercial lots will be minimal amount of fill in accordance with the approved NPDES permits.

Ross then addressed the landfill issues. Landfill was a concern in phase I but phase I was in an area removed from the landfill issue. A venting system was designed that was not required. Phase II is close to the landfill. They have put in 230 borings and test pits after a complete electromagnetic survey to determine the limits of the landfill based on finding varying degrees of different material underground. They then went out and put in a considerable amount of borings to pinpoint the landfill. The site was designed to stay out of the landfill area. The financial lending for phase II will not permit the applicant to purchase any land that has landfill. Landfill material will be removed in approximately six small pockets, and a renovation plan will be done. This will all occur prior to construction. They will be removing 8800 cubic yards of landfill materials, the result being that this site will be purchased without any landfill whatsoever. The applicant will be requesting GTSI to furnish the test boring information to

report the methane gas. Ross reiterated that there will not be any landfill within the limits of the project. The only place that methane was detected was where there was underlying landfill. That landfill material will be removed. A clay blanket will be built up beneath each of the structures which will be impermeable. On top of the clay blanket is a poly vapor barrier. The applicant does not anticipate having to vent the buildings in phase II. This additional information will be provided to the Health Department.

With regard to access issues, Ross acknowledged that access was somewhat of a concern in phase I, and the applicant was required to pave W. Charleston to 33'. Access has been a little bit of issue in Phase II, and the staff recommends that there be a secondary entrance in the event of an accident. The applicant has shown a secondary connection, and has agreed to construct an 18' wide emergency secondary connection from the south limits of phase II all the way south and east to the traffic signal, which is the entrance to the baseball stadium. This has been approved by Public Works.

Ross further advised that W. Charleston will be widened by 6' for approximately 220' at the intersection of N. 1<sup>st</sup> Street, which was a recommendation in the consultant traffic study.

Ross believes there is a misconception on utilities. The utilities are public for water and sanitary going through phase II to get to the Chameleon property to the south. All other utilities will be private, similar to what was done in phase I. The gravity system is deep enough, which should resolve the issue of utilities.

Ross submitted proposed amendments to the conditions of approval on the preliminary plat (attached hereto as Exhibit "C"). Due to the large extent of area of landfill, the developer does not expect this to be an intensive commercial area. They would anticipate something like a truck terminal. There are 7.5 acres of commercial area to the north of phase II and 25 acres of commercial to the south of phase II. They do not want trucks coming through the student housing area. Therefore, there will be protective covenants placed on the land providing that future development of the commercial area to the south will need to head their truck traffic to the south. Therefore, Ross does not believe there is a need for the 33' of paving, and requested the following amendment to Condition #1.1.4: Provide 33' wide Private Roadway for 300 feet west of Sun Valley Boulevard, then narrow to 27 feet for the remainder of the distance to W. Charleston Street.

Ross requested that Condition #1.1.15 be deleted relating to floodplain and fill.

Ross also requested that several of the conditions required to be completed prior to scheduling on the City Council agenda, be moved to a new Condition #4 so that they can be done prior to receiving a building permit. Ross believes that Public Works is in agreement with this change.

Pearson asked the applicant to show a map of the floodplain area. Ross explained that the entire area is within the limits of the 100 year floodplain. It goes all the way to Sun Valley Boulevard, including the intersection of 1<sup>st</sup> and W. Charleston.

Carroll inquired about the proximity of the private roadway to phase II. Ross showed this on the map. He also noted that someday Sun Valley will be relocated. The balance of that private roadway that continues west and heads north is what the applicant is proposing be a 27' wide paved private roadway. Carroll inquired why it should not be kept at 33' since all of that area will still be zoned H-3. Ross indicated that because of the intensiveness of the landfill, they don't expect that the buildings will be the large normal commercial buildings, because when they build, most financial companies will

require that they remove any landfill under the building, so low intensity uses are anticipated as compared to most commercial development. Thus Ross does not believe the 33' wide street is necessary. With protective covenants between the two developers, they are not going to allow that traffic to go north through the student housing.

Carroll inquired as to the depth of the excavation of the landfill. Ross stated that it will vary. The deepest area found was 13'. The average is about 4' to 4.5' of landfill. Carroll inquired whether they will test for methane gas during excavation. Ross stated that the excavation will be done in accordance with NDEQ criteria. He does not recall the test for methane gas being a requirement, but he agreed to further investigate.

There was no testimony in opposition.

### Staff questions

Marvin asked staff to address the proposed amendments. Greg Czaplewski of Planning staff indicated that staff would agree to the first four amendments. As far as moving some of the Site Specific conditions of approval, Czaplewski suggested that they become a part of the conditions required "prior to receiving a final plat" as opposed to building permit.

Dennis Bartels of Public Works addressed the 33' street width, stating that 33' is typically the standard commercial width street. The design standards do not talk about any wider than 27' for private roadway. But if you go to 27', a truck turning in or out will use the whole street. That is why you have the 33' or 39' wide street in commercial areas. Bartels also agreed with Czaplewski as far as moving some of the site specific conditions to being requirements before final plat because we do not want the final plat to be approved and then it can't be built.

Marvin noted that something is being done on Military Road in the Antelope Valley project. Is there going to be any disruption of traffic flow? Bartels does not believe there is any relationship between Antelope Valley and this project.

Bartels further discussed the street width, stating that the 27' meets design standards but as an engineer he recommends 33'.

Carroll referred to Condition #1.1.7 and inquired whether "adequate" buffer area for the wetlands as opposed to 25' is acceptable as there is no definition of "adequate". Czaplewski stated that there is no standard for that buffer area. The Design Standards recommend 25-50 feet. He would assume that the recommendation from the NRD would probably fall within that range. Bartels agreed with the language proposed by the applicant because it gives them some flexibility.

Pearson thought that the city was currently doing a study for floodplain regulations. Marvin Krout, Director of Planning, advised that the Floodplain Task Force report is finished and the public hearing before the Planning Commission is tentatively scheduled for March 31<sup>st</sup> on new floodplain regulations for "new developing areas". "New developing areas" means areas outside of the city limits. Those recommendations will not include this area. There were recommendations in the report for the developed areas that were similar to the recommendations for the new developing areas. There was a recommendation for no net rise and compensatory storage for Salt Creek and other developed areas. In this case, the developer is meeting the no net rise requirement but not providing

compensatory storage. The Public Works stormwater section has accepted this proposal. The belief of the administration was that the Salt Creek and tributaries in developed areas have already had so much development that is already there, that it needed further study and it needed a set of guidelines that would be more flexible than for the new developing areas. That committee may be reconvened to look in more detail at the developed areas.

Bills-Strand referred to the street width of 33', noting that this is a private roadway and it looks like it is going through residential. If we make it 33' she is worried that it will become a very fast-paced street with baseball traffic seeing it as a shortcut. Bartels responded, pointing out that the developer is changing this to residential and part of the design of this project is creating that problem. He is thinking in terms of narrowing it through the apartment complex as a compromise and amending the language of the condition "to the satisfaction of Public Works" as opposed to 27'. Bartels would therefore suggest that Condition #1.1.4 read: "Provide 33' wide private roadway or a roadway to the satisfaction of Public Works."

#### Response by the Applicant

Ross agreed with Bartels regarding Condition #1.1.4. He agrees the roadway would be 33' at least at the intersection connecting with Sun Valley Boulevard. This drive will serve some commercial development and should be 33' wide. Ross reiterated that there are three reasons why this area south of phase II will develop rather sparsely over a long period of time without intensive commercial, i.e. "landfill, landfill, landfill". To run a commercial street 33' wide through the student housing could be very negative and an unsafe situation. The developer believes that the future development of the 25 acres might result in 19 acres of commercial development. There are two commercial lots in this preliminary plat, but they do not anticipate that they will develop intensely. The developer does not believe that 33' is needed for the entire distance and they will continue to work with Public Works.

Mike Rierden has talked with Dennis Bartels during this hearing and the applicant will agree to changing Condition #1.1.4 as requested by Bartels. He believes they can reach a compromise that would be beneficial to all parties.

#### **CHANGE OF ZONE NO. 3421**

#### **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 4, 2004

Taylor moved approval, seconded by Marvin.

Pearson stated that she does not support new development in the floodplain. Until the recommendations of the Floodplain Task Force are presented, she intends to vote against every new development in the floodplain, let alone those in the area of wetlands.

Carlson remembers the hearing on phase I and because of the floodplain issue and the landfill and access issues, he takes the position that it continues to be a poor choice for student housing.

Motion for approval failed 4-4: Marvin, Taylor, Sunderman and Bills-Strand voting 'yes'; Carlson, Krieser, Carroll and Pearson voting 'no'; Larson absent.

This item is held over until February 18, 2004.

**SPECIAL PERMIT NO. 1928A,**

**AMENDMENT TO THE OAK CREEK APARTMENTS COMMUNITY UNIT PLAN.**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 4, 2004

Pearson moved to deny, seconded by Carlson.

Pearson believes that the Commission is close to receiving the Floodplain Task Force recommendations and she would like to see those recommendations before continuing to approve development in the floodplain. The applicant can come back after that information is available. She does not want to rush it.

Taylor stated that he will vote against denial because of the work that has already been done in the area. This is a continuation of the phase I activity.

Bills-Strand would rather defer voting on this application since the change of zone was held over. Motion to deny failed 4-4: Carlson, Krieser, Carroll and Pearson voting 'yes'; Marvin, Taylor, Sunderman and Bills-Strand voting 'no'; Larson absent.

This item is held over until February 18, 2004.

**PRELIMINARY PLAT NO. 03011, OUTFIELD PARK.**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 4, 2004

Taylor moved to defer for two weeks, seconded by Sunderman and carried 6-2: Krieser, Marvin, Carroll, Taylor, Sunderman and Bills-Strand voting 'yes'; Carlson and Pearson voting 'no'; Larson absent.

This item is deferred until February 18, 2004.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 18, 2004

Members present: Pearson, Krieser, Carroll, Sunderman, Carlson, Marvin, Taylor and Bills-Strand; Larson absent.

Staff recommendation: Approval of the change of zone, and conditional approval of the amendment to the community unit plan and the preliminary plat.

Ex Parte Communications: All of the Commissioners indicated they had been contacted by the applicant in the past two weeks.

Greg Czaplewski of Planning staff submitted additional information for the record including an email from Ed Caudill on behalf of the North Bottoms Neighborhood Association, disclosing correspondence that he has had with the applicant.

Czaplewski also submitted revised conditions of approval as a result of the work that the staff and the developer have done in the last two weeks. Some of the conditions were moved from being required prior to City Council scheduling to before building permit so that they occur later in the process, as requested by the applicant. Czaplewski also made additional changes to Condition #1.1.11, changing the lot numbers and adding: "The first 1200', as measured from the centerline of Sun Valley Boulevard, may be constructed in phases as buildable lots are platted. At such time as the final plat is approved requiring this roadway to exceed 1200', the remainder of the roadway will be constructed to meet design standards." Czaplewski reported that the conditions, as amended, should be agreeable to the city and the applicant.

### Proponents

**1. Ron Ross** of Ross Engineering testified on behalf of **Chameleon & Co.**, the owner of the overall property, and the **Dinerstein Companies**, the developer of the student housing project. City staff has rewritten the conditions of approval for both the special permit and the preliminary plat, and the applicant and developer are in agreement with all of those conditions of approval.

Ross acknowledged that the student housing is sandwiched between 7.5 acres of commercial on the north and 25 acres on the south. The reason for this is the landfill. The Dinerstein Companies cannot buy any land with landfill.

With regard to the issue of development within the floodplain, Ross advised that they are trucking zero dirt into the project, as was done in phase one. In phase two, they are obtaining 100% of this material from their own property, so they are not trucking any dirt into the area. The 86,000 cubic yards of compacted fill is being generated within their own property. They have also agreed with future regulations regarding the floodplain, i.e. compensatory storage. The developer has voluntarily agreed to provide a one-to-one storage exchange for flood control. That is not a current land subdivision requirement.

Ross further advised that Chameleon & Co. currently has a NPDES permit and floodplain permits for the north 1/3 and south 1/3. They have not yet submitted the middle 1/3 but they are prepared to do so. When the applicant had the permits approved, they showed a grading plan filling the entire property. They know that is not what the city is recommending in the future, so the developer has agreed to revise the fill permit to show the proposed grading as part of this plat. It reduces the amount of fill and provides less trucked-in material in the future when that area is developed.

With regard to the wetlands buffer, Ross stated that the developer has agreed to provide the 25' wide buffer around the existing wetlands by eliminating some parking stalls and they have resubmitted a site plan accordingly.

In further regard to the student housing being sandwiched between commercial, Ross explained that the site plan is based on landfill issues and wetlands. At the last meeting, some of the Commissioners were concerned about the through movement of traffic from the south to the future commercial area, starting at Sun Valley Blvd. The developer has agreed with Public Works to widen that to 33' to a point



at which there will be a future access road, once Sun Valley Blvd. is relocated, to provide an entrance to the remaining city property that is currently the car tow lot. After that, the roadway narrows to 27' as it goes through the student housing. The service commercial area has been revised such that the private roadway does not have a direct vehicular connection that runs north and south all the way through the property. There is a jog to the east. The result is now a service center buffered by a 50' greenbelt, loaded with trees and drainage way. The service center is buffered from the student housing. Ross requested that the Commission add a condition that adopts the new site plan. Planning staff and Public Works are in agreement with this plan. Ross pointed out that Condition #1.1.14 on the community unit plan states that the street alignment system must be approved by Public Works, and Dennis Bartels has indicated that they do support this revised plan.

Ross reiterated that the applicant and developer are in agreement with all conditions of approval on both the special permit and the preliminary plat as submitted by the staff today. The grading that will be done in Outfield Park is substantially less than what the developer could do today.

Ross believes that the developer has addressed the concerns raised by Ed Caudill on behalf of the North Bottoms Neighborhood Association. The applicant has withdrawn the waiver of detention. They are requesting sidewalks only on one side of the long private roadway. The waiver of landscaping only applies to the property adjacent to the railroad, which was also done in phase one.

Marvin inquired about the developer's offer to the neighborhood to pay \$10,000 to finance a police substation. Ross stated that that was done with the neighborhood many months ago; however, he did not know the timeframe for payment. Craig Dickerson of Sterling Housing, acknowledged that they did agree to make a one-time contribution for a substation, but it was agreed that the contribution was not to be a condition of approval for the project.

**2. Craig Dickerson, Sterling Housing**, expressed appreciation to the North Bottoms Neighborhood Association, the Planning Director and City staff. This project has required significant discussion and review. He believes this is a good area for this project and a good project for the community. He respectfully requested the Commission's support.

**3. Adam Bruning(sp)**, student at UNL, testified in support. He has lived at the Sterling University apartments for 10 months. Some of the amenities that have brought him to this community are the shuttle bus to and from school; weight room; pool table; and the use of a computer for anyone who does not have one.

**4. Elizabeth Dodson**, student at UNL, and resident at Sterling since August, testified in support. She enjoys the environment. As a college student, there are a lot of things they have to offer that she could not find anywhere else. The "SUH cares program" helps the residents get to know each other; they have a roommate matching program which is excellent; expanding and adding more apartments will give other students the same opportunity.

**5. Matt Weyman(sp)**, who has lived at Sterling University since August, testified in support. They provide on-site maintenance; a friendly staff; and provide a one person-one bedroom lease in case someone leaves. It is a great place.

**6. Ed Caudill**, testified on behalf of the **North Bottoms Neighborhood Association** in support. He testified over two years ago before this body fighting a salvage lot going on the corner of N.W. 1<sup>st</sup> and Cornhusker right across from Oak Lake. However, North Bottoms is still in support of this project. They believe there is a buffer between the neighborhood and this area. It is an improvement around Oak Lake. The neighborhood does still have concerns about traffic, and the new street aligning with the entrance to the ball park is a concern to the neighborhood. Caudill believes the floodplain issue has been satisfied.

There was no testimony in opposition.

Pearson inquired whether the access to the city tow lot is in place. Czaplewski showed the access on the map. The existing access to the tow lot and BMX bike track will be retained. Pearson wondered what will happen if Sun Valley is realigned. Czaplewski did not know how the access would be relocated once the state project is done. Referring to the map, Czaplewski pointed out the entrance to the apartments, and that is where it will be after Sun Valley is realigned. Gus Ponstingl of Ross Engineering also explained the access at the map. They do not know what will happen with the tow lot. The owner of the property to the west and south of the tow lot is Chameleon and they have granted an easement to the city for access.

Pearson sought confirmation that there is no net rise in the floodplain. Czaplewski stated that there is a condition on the community unit plan requiring compensatory storage to replace lost floodplain storage, and they will do that at a one-to-one ratio. Devin Biesecker of Public Works explained that the Salt Creek floodplain is very complicated. Public Works had thought about having the developer show no net rise, but you can get very close to no net rise with compensatory storage, and without doing modeling, compensatory storage is the next best thing. They are offsetting fill in the floodplain with an excavated portion of fill. Without doing the modeling, he could not say whether it is “no net rise”, but it does meet all of the city’s existing requirements.

Pearson inquired as to who would have to provide the modeling. Biesecker stated that the city usually asks the developer to do the modeling. Pearson inquired further as to what Biesecker means when he says that “compensatory storage is close to no net rise”. Biesecker stated that in the new draft floodplain standards for new growth areas, it is being proposed that development use compensatory storage, and they can do this without doing modeling if the storage mimics the original functions of the floodplain.

**CHANGE OF ZONE NO. 3421**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 18, 2004

Taylor moved approval, seconded by Marvin and carried 7-1: Pearson, Krieser, Carroll, Sunderman, Marvin, Taylor and Bills-Strand voting ‘yes’; Carlson voting ‘no’; Larson absent. This is a recommendation to the City Council.

**SPECIAL PERMIT NO. 1928A**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 18, 2004

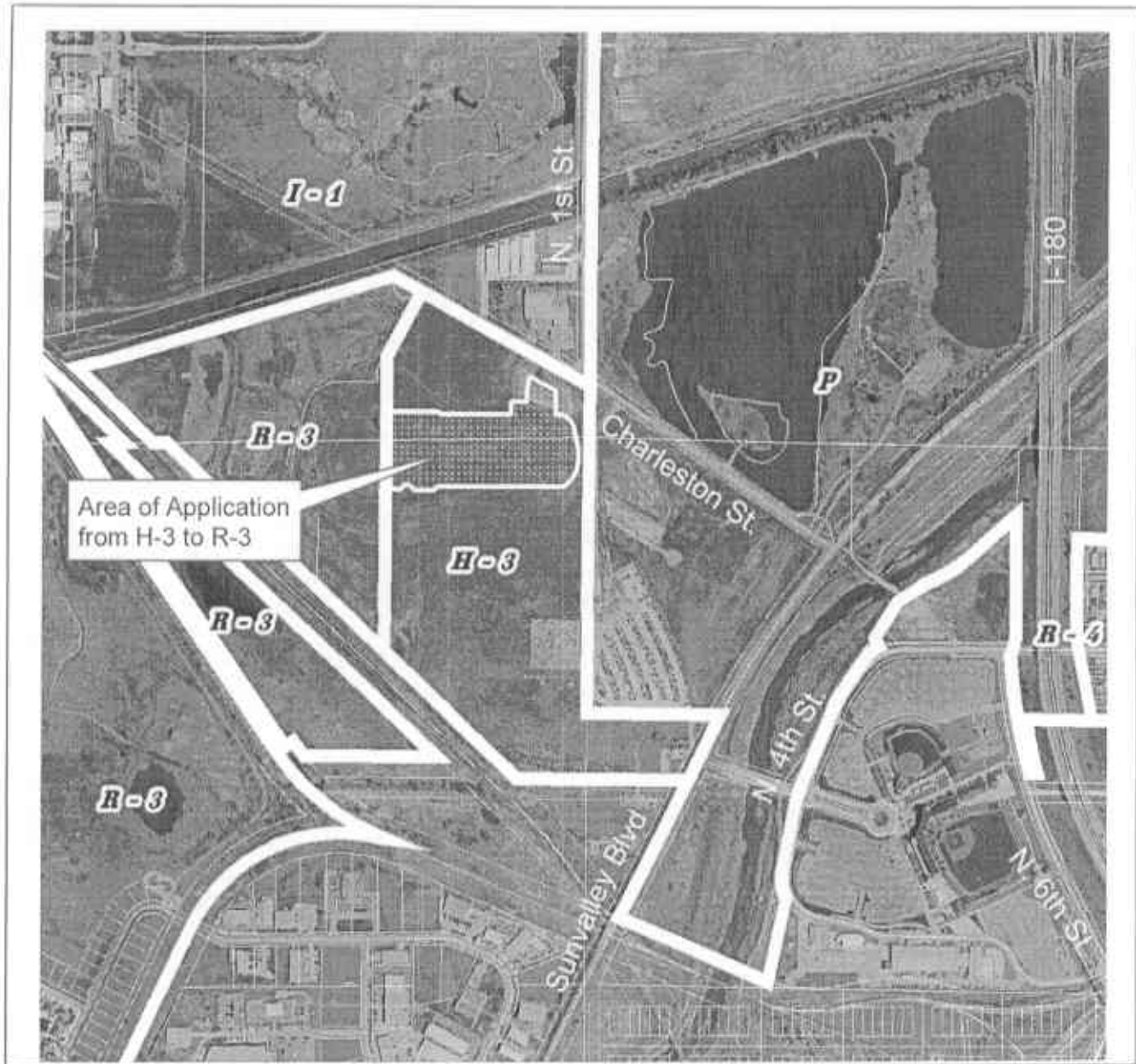
Taylor moved to approve the staff recommendation of conditional approval, with the revisions submitted today, seconded by Marvin and carried 6-2: Krieser, Carroll, Sunderman, Marvin, Taylor and Bills-Strand voting 'yes'; Pearson and Carlson voting 'no'; Larson absent. This is a recommendation to the City Council.

**PRELIMINARY PLAT NO. 03011, OUTFIELD PARK**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 18, 2004

Carroll moved to approve the applicant's revised submittal, with the revised conditions of approval as submitted by the staff today, seconded by Marvin and carried 6-2: Krieser, Carroll, Sunderman, Marvin, Taylor and Bills-Strand voting 'yes'; Pearson and Carlson voting 'no'; Larson absent. This is a recommendation to the City Council.



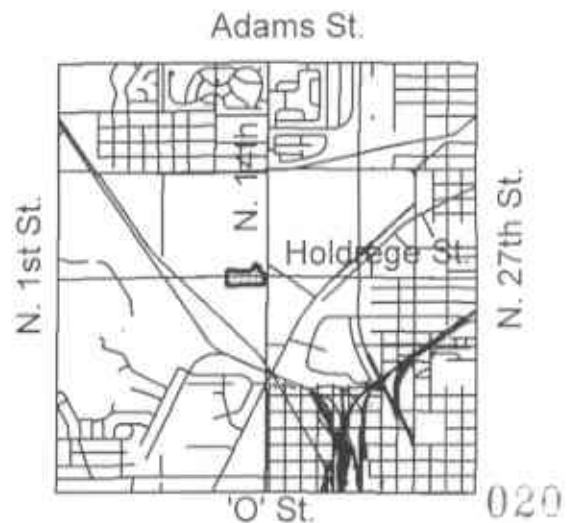
2002 aerial

## Change of Zone #3421 N. 1st & Charleston St.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

Four Square Miles  
Sec. 15 T10N R6E  
Sec. 22 T10N R6E  
Sec. 23 T10N R6E  
Sec. 14 T10N R6E



## Exhibit C

### LEGAL DESCRIPTION

#### AREA OF CHANGE OF ZONING

A legal description of a portion of Lot 81 Irregular Tract, located in the Southeast Quarter of Section 15 and a portion of Lots 263 Irregular Tract, located in the Northeast Quarter of Section 22, all located in Township 10 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska and being more particularly described by metes and bounds as follows:

Referring to a found LCSM Aluminum Cap, being the Northeast Corner of Section 22, Township 10 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska and also said point is the Southeast Corner of Lot 81 Irregular Tract, located in the Southeast Quarter of Section 15, Township 10 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska or the Northeast Corner of Lot 263 Irregular Tract of said Section 22; Thence S 89°13'59" W, (an assumed bearing), and on the North Line of the Northeast Quarter and Lot 263 Irregular Tract of said Section 22 or the South Line of Lot 81 Irregular Tract of said Section 15, a distance of 70.25 feet to a point, being the POINT OF BEGINNING; Thence S 13°29'07" E, a distance of 55.33 feet to a point; Thence S 00°00'00" E, a distance of 54.83 feet to a point, being the Point of Curvature; Thence on a curve to the right, having a radius of 140.65 feet, an arc length of 108.08 feet and a central angle of 44°01'41", with a chord bearing of S 22°00'50" W, a chord distance of 105.44 feet to a point, being the Point of Tangency; Thence S 44°01'41" W, a distance of 45.79 feet to a point; Thence N 90°00'00" W, a distance of 637.81 feet to a point; Thence S 44°08'35" W, a distance of 27.87 feet to a point; Thence N 90°00'00" W, a distance of 94.18 feet to a point; Thence N 47°56'44" W, a distance of 39.71 feet to a point; Thence N 90°00'00" W, a distance of 28.23 feet to a point; Thence S 33°05'04" W, a distance of 26.97 feet to a point; Thence 90°00'00" W, a distance of 70.10 feet to a point on the East Line of Lot 303 or the West Line of Lot 263 Irregular Tracts of said Section 22; Thence N 00°19'52" E, and on the East Line of Lot 303 or the West Line of Lot 263 Irregular Tracts of said Section 22, a distance of 380.48 feet to a point; Thence N 90°00'00" E, a distance of 257.10 feet to a point; Thence S 43°01'01" E, a distance of 18.18 feet to a point; Thence N 90°00'00" E, a distance of 356.21 feet to a point; Thence N 00°00'00" E, a distance of 60.39 feet to a point; Thence N 90°00'00" E, a distance of 77.86 feet to a point; Thence N 00°00'33" W, a distance of 37.91 feet to a point, being the Point of Curvature; Thence on a curve to the right, having a radius of 280.00 feet, an arc length of 89.48 feet and a central angle of 18°18'39", with a chord bearing of N 09°08'46" E, a chord distance of 89.10 feet to a point; Thence S 61°30'40" E, a distance of 150.36 feet to a point; Thence S 00°00'00" E, a distance of 114.49 feet to a point; Thence N 90°00'00" E, a distance of 17.86 feet to a point, being the Point of Curvature; Thence on a curve to the right, having a radius of 70.50 feet, an arc length of 94.15 feet and a central angle of 76°30'53", with a chord bearing of S 51°44'33" E, a chord distance of 87.31 feet to a point, being the Point of Tangency; Thence S 13°29'07" E, a distance of 59.52 feet to the point of beginning and containing a calculated area of 365,270.85 square feet or 8.385 acres more or less.

J:\ADCADD\P\129802\129802G03.doc

Sent By: ; IN SUPPORT  
SUBMITTED AT PUBLIC HEARING 240-331-7544;  
BEFORE PLANNING COMMISSION: 2/04/04

Dec-22-03 11:29AM;

Page 1/1

ITEM NO. 4.3a,b,c: CHANGE OF ZONE NO. 3421  
SPECIAL PERMIT NO. 1928A  
PREL. PLAT NO. 03011  
(p.85 - Cont'd Public Hearing - 2/18/04)



## North Bottoms Neighborhood Association

1223 North 9<sup>th</sup> Street, Suite 100 • Lincoln NE 68508 • 402-475-4950

December 5, 2003

Mr. Craig Dickerson  
The Dinerstein Companies  
6363 Woodway, Suite 1000  
Houston TX 77057-1757

Dear Craig,

The North Bottoms Neighborhood Association would like to express our thanks to you and the Dinerstein Company for the efforts made to address the concerns of the neighborhood as it relates to your proposed phase II of the Sterling University Housing complex on West Charleston Street.

The North Bottoms Neighborhood board indicated two majors concerns, one being the large student population in and around our neighborhood and the associated challenges, the other being the neighborhood's location within a floodplain.


To help mitigate these concerns and gain the support of the North Bottoms Neighborhood Association the Dinerstein Company has agreed to the following:

- Fill dirt will come from within the project site resulting in no net rise in the flood plain.
- A one time contribution of \$15,000 to help fund a police substation within the North Bottoms Neighborhood.
- Install street lighting and sidewalks along the west side of West Charleston Street between phases I & II.
- Shuttle buses will not travel via streets within the neighborhood except North 10<sup>th</sup> and Military Road.
- Adopt West Charleston Street for the purposes of regular litter pick up.
- Support the relocation of the city tow lot away from the area.
- Support the retention of a Belmont/North 10<sup>th</sup> street connection when Sun Valley Boulevard is reconfigured.
- Join the North Bottoms Neighborhood Association and support our efforts to improve this area of Lincoln.

The board of the North Bottoms Neighborhood Association voted to support your proposed phase II. We feel the project offers an opportunity to improve the area around Oak Lake. It provides good quality high density housing for students with a reasonable distance from our lower density residential areas.

We look forward to seeing the completion of your project

Sincerely,

  
Ed Caudill - President  
North Bottoms Neighborhood Association

ITEM NO. 4.3a,b,c: CHANGE OF ZONE NO. 3421  
SPECIAL PERMIT NO. 1928A  
Prel. Plat No. 03011  
(p.85 and 107 - cont'd public hearing - 2/18/04)



Ed Caudill  
<edcaudill@juno.com>  
02/18/2004 11:41 AM

To: JWalker@ci.lincoln.ne.us  
cc: mayor@ci.lincoln.ne.us, MKrout@ci.lincoln.ne.us,  
RHill@ci.lincoln.ne.us, BWill@ci.lincoln.ne.us, RPeo@ci.lincoln.ne.us,  
AHarrell@ci.lincoln.ne.us  
Subject: NW1st & Charleston Items

Planning Commission Members:

Concerning today's agenda items change of zone #3421, special permit #1928A and preliminary plat #03011. It's appears as if all the parties involved with these three items are acting together.

Please see the attached correspondence between the North Bottoms Neighborhood Association and the Dinerstein Company representative.

It would appear there may be some inconsistencies in what was promised and what the applicants are now proposing.

The North Bottoms Neighborhood would request the commissioners assistance in protecting the interest of the residents of this area of the city.

Thanks you for your consideration.

Ed Caudill - President  
North Bottoms Neighborhood Association  
1223 North 9th Street, Suite 100  
Lincoln NE 68508

Phone: 402-475-4950      eFax: 240-331-7544      email: edcaudill@juno.com



NBNA\_Dinerstein Ltr.px



## North Bottoms Neighborhood Association

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To help mitigate these concerns and gain the support of the North Bottoms Neighborhood Association the Dinerstein Company has agreed to the following:

- Fill dirt will come from within the project site resulting in no net rise in the flood plain.
- A one time contribution of \$15,000 to help fund a police substation within the North Bottoms Neighborhood.
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- Shuttle buses will not travel via streets within the neighborhood except North 10<sup>th</sup> and Military Road.
- Adopt West Charleston Street for the purposes of regular litter pick up.
- Support the relocation of the city tow lot away from the area.
- Support the retention of a Belmont/North 10<sup>th</sup> street connection when Sun Valley Boulevard is reconfigured.
- Join the North Bottoms Neighborhood Association and support our efforts to improve this area of Lincoln.

The board of the North Bottoms Neighborhood Association voted to support your proposed phase II. We feel the project offers an opportunity to improve the area around Oak Lake. It provides good quality high density housing for students with a reasonable distance from our lower density residential areas.

We look forward to seeing the completion of your project!

Sincerely,

  
Ed Caudill – President  
North Bottoms Neighborhood Association



Juno e-mail for edcaudill@juno.com printed on Tuesday, October 28, 2003, 1:06 PM

From: "Craig Dickerson" <Craig@dmcmgmt.com>  
To: "Ed Caudill" <edcaudill@juno.com>  
Cc: "Jack Dinerstein" <jackd@dmcmgmt.com>  
Date: Mon, 27 Oct 2003 14:50:15 -0600  
Subject: Proposed Housing Project

*Mr. Caudill, thank you for the opportunity to discuss the proposed student housing project with the neighborhood board members last Tuesday night. I have consulted with the Dinerstein Company and have obtained responses to most of the questions that were asked at the neighborhood meeting. We strongly believe the proposed project will be an asset to the neighborhood, and will allow for an appropriate re-use of an unsightly and underutilized former land fill. The Dinerstein Company would greatly appreciate the boards support and suggest this be facilitated through a recommendation of approval letter. Please do not hesitate to contact me at (713) 570-0350 if you have any questions concerning the questions and responses referenced below. Thanks Again!*

1. The neighborhood was very interested that there be a no net rise in the flood plain. As discussed, Dinerstein will be getting their fill from the ground adjacent to the site, which is West of the U.P. tracks, and there would be no net rise in the flood plain.
2. The Neighborhood express concern about college parties, they are extremely close to the college, and they get a lot of students in old converted single family homes. North Bottoms Neighborhood Association President Mr. Ed Caudill expressed a desire to have a Police substation in his neighborhood and asked Dinerstein to help fund a facility. The Dinerstein is willing to make a one time contribution to the City of Lincoln of \$10,000 to assist in funding a Police Substation to be located in the North Bottoms neighborhood. As mentioned at the neighborhood meeting, the Dinerstein Company is very sensitive about the police substation being a condition of approval.
3. The Neighborhood requested sidewalks and street lighting be installed along W. Charleston from Phase I to the new primary entrance of Phase II. The Dinerstein Company agrees with the neighborhood and would obligate itself to install street lighting and sidewalk improvements along the West frontage of W. Charleston between Phase I and Phase II.
4. The Neighborhood requested that Phase I adopt W. Charleston Street over to Sun Valley Boulevard, not just to First Street. The Dinerstein Company is currently working with the City of Lincoln to formally adopt W. Charleston Street from Phase I up to First Street. Maintaining the grounds from Phase I to First Street has been a substantial commitment in man power and man hours from the on-site management staff. Regrettably, the management staff simply does not have the on-site work force to continue operations up to Sun Valley Boulevard.
5. The Neighborhood would like support if the question of where the tow lot will be located, to some other neighborhood, and not theirs. The Dinerstein Company agrees with the neighbors and would support the effort to re-locate the tow lot to an alternative location.
6. The Neighborhood also would like Dinerstein to support the continued connection of Sun Valley Blvd to 10th Street. Yes, we would continue to support.

Juno e-mail for edcaudill@juno.com printed on Tuesday, October 28, 2003, 1:06 PM

7. The neighborhood brought up the possibility of including both projects into their neighborhood boundary. The Dinerstein Company would be delighted to be included in the neighborhood.

Juno e-mail for edcaudill@juno.com printed on Sunday, December 21, 2003, 5:16 PM

From: "Craig Dickerson" <Craig@dmcmgmt.com>  
To: "Ed Caudill" <edcaudill@juno.com>  
Date: Tue, 11 Nov 2003 16:31:13 -0800  
Subject: RE: Sun Valley Blvd Changes

Ed, here's my best try at a letter. ?? Thanks

- The Dinerstein will agree to an additional \$5,000 contribution for a total of \$15,000 toward the construction of a police substation.

**NERSTEIN  
MPANIES**

Woodway • Suite 1000  
Lincoln, Texas 77057-1757  
o 713 570-0300  
/13-570-0400

February 9, 2004

RECEIVED FROM MELINDA PEARSON ITEM NO. 4.3a,b,c: CHANGE OF ZONE #3421  
SPECIAL PERMIT #1928A  
PREL. PLAT #03011  
(p.85 - Cont'd Public Hearing - 2/18/04)

cc: Planning Commission  
Dennis Bartels, Public Works  
Rick Peo, Law Dept.  
Nicole Fleck-Tooze, PW

Ms. Melinda Pearson  
Planning Commission Member  
645 M Street, #103  
Lincoln, Nebraska 68508

**RE: 170 Unit Proposed Student Housing Project, Lincoln, Nebraska**

Dear Ms. Pearson:

Our design consultants believe the project complies with all existing design standards, regulations, and FEMA guidelines for development within the limits of the flood plain. Professional agencies such as, the City's Planning Staff and Public Works Department agree with the consultants design criteria for development in the flood plain and have recommended project approval. The design team is working toward scheduling a meeting this week with the City's flood plain director to ensure the project complies with future flood plain standards.

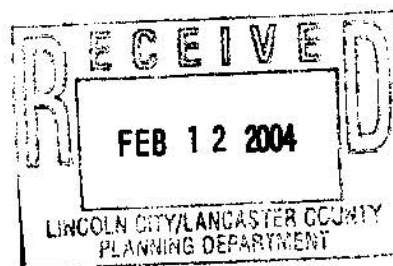
I do appreciate your willingness to meet and discuss your concerns regarding development in the flood plain and wetlands mitigation methods. I would like to schedule a brief meeting with you anytime on February 12th for the purpose of informing you on progress made on the two aforementioned issues. I will phone you later in the week to see what date and time works best for your schedule.

Please do not hesitate to contact me at (713) 570-0350 if you have any questions, and I look forward to meeting with you.

Sincerely yours,

By:

  
Craig A. Dickerson



**Craig Dickerson**

**From:** Gus Ponstingl [GPonstingl@rossengineering.com]  
**Sent:** Tuesday, February 10, 2004 9:14 AM  
**To:** "Ron Ross"; "Barb Harrigan"  
**Cc:** Gary Fairchild; Craig Dickerson  
**Subject:** RE: Sterling U and Outfield Park #129802-P

Ron: We have finished with our revisions to the Commercial area to the north. The Site Plan is updated and was delivered to Dennis this morning, and also to Greg Cz. We wanted to make sure they could look at it during their morning meeting. I've mentioned the connection to the Private Roadway entrance from the 7.5 acres, as well as several other changes:

Here's the body of the letter I sent with the drawings:

Dear Greg:

We are modifying Outfield Park Preliminary Plat with the following revisions and corrections based on the comments we received from the Planning Department and the Planning Commission.

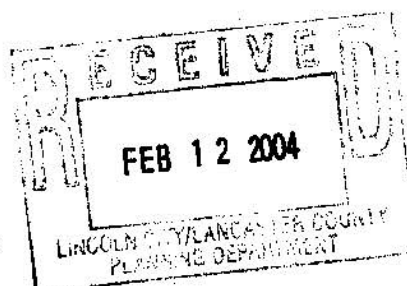
Revisions:

1. The S-shaped Private Street that ran thru the commercial area to the north has been modified to now connect to the entrance for Sterling University. The site plan shows a potential layout of commercial development along this private street. 2. A second bus stop has been added at the corner of Driveway E and Driveway B. 3. The first bus stop was moved one block east. 4. The Entrance Monument sign has been moved to the center of the median of the entrance to Phase 2. 5. The commercial area north of Dinerstein's. 6. The Mail Kiosk was accidentally removed from the previous CUP and PP, and it has been added to the drawing. 7. A portion of West Charleston Street is now shown widened by six feet, to make this 39 feet wide at First Street in order to make enough space for a turn lane. 8. Two of the Townhouse structures were swapped: the four-plex was swapped with a six plex to reduce the amount of parking required next to the wetland. One six-plex was shifted away from the existing Wetland to avoid needing retaining walls. 9. The retaining walls were deleted, and the sidewalks have been pulled closer to the apartments to avoid the wetlands. If they are needed, small retaining walls will be utilized to maintain the 25-foot buffer around the wetland. 10. The Grading Plan will be revised around wetland to have 2 to 1 slopes to avoid impacting the wetland. 11. Several parking lots were shortened and many parking stalls were removed order to maintain a 25 feet buffer next to the adjacent Wetland. 12. Line Drive (aka NW 2nd Street) is shown widened to 33-feet south of the Tow Lot Private Street, which is on the south tract of the Preliminary Plat. It tapers to 27-feet as it enters the residential area of Sterling University. 13. The landscape Buffer for H-3 is now shown on Preliminary Plat. It is a 30-foot screening around the outlots to the north and south of Sterling University Phase 2.

We have included four drawings of the site plan. Let me know if you have any questions.

-----Original Message-----

**From:** Ron Ross  
**Sent:** Tuesday, February 10, 2004 8:35 AM  
**To:** Gus Ponstingl; Barb Harrigan  
**Cc:** 'garyf@dmcmgmt.com'; 'craig@dmcmgmt.com'  
**Subject:** Sterling U and Outfield Park #129802-P



I spoke with Dennis this morning concerning the following:

1. Dennis talked with Wastewater Department and the existing lift station is adequate for Phase II of Sterling U and for Outfield Park.
2. He is OK with the Public water being over the Private water main and the

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